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In re Application of :
Steven Swaddle : DECISION ON PETITION
Application No. 09/881,233 :
Filed: June 14, 2001 :
Attorney Docket No. P-US-CS 1096#SP :

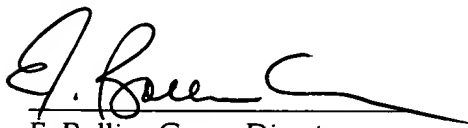
This is a decision on the petition originally filed on August 11, 2003, as resubmitted by facsimile transmission on August 10, 2004, by which petitioner requests withdrawal of the holding that this application is abandoned for failure to file a reply to the Office letter dated September 24, 2002. The petition is being considered under 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did not receive the Office letter in question. A review of the petition shows that petitioner has not provided a satisfactory showing that this correspondence was not received, because petitioner has not provided a copy of the docket record where receipt of the action would have been recorded, and has not referenced such docket record in the petition. In general, see the Notice published at 1156 OG 53, as discussed in MPEP § 711.03(c), subsection entitled "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action." However, inspection of the application file shows that the Office letter in question, although properly addressed, was returned undelivered. Therefore, the record does in fact establish that petitioner did not received the Office letter dated September 24, 2002, and the application is not, therefore, abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to re-mail the Office letter dated September 24, 2002, and all attachments thereto. In order to avoid abandonment, a reply to the re-mailed Office letter will be due three months from the date that the letter is remailed. This period will be extendible pursuant to 37 CFR 1.136(a), but in no event may the period be extended to run more than six months from the date of the re-mailed action. See 35 USC § 133.

PETITION GRANTED.


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